

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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ANTHONY BROOKS,

Plaintiff,

v.

NEVADA DEPARTMENT OF  
CORRECTIONS DIRECTOR,

Defendant.

Case No. 3:20-cv-00204-MMD-WGC

ORDER

This action began with a notice of complaint filed by *pro se* Plaintiff Anthony Brooks, a state prisoner. (ECF No. 1-1.) On April 3, 2020, this Court issued an order directing Plaintiff to file a complaint and a fully complete application to proceed *in forma pauperis* or pay the full filing fee of \$400 on or before June 2, 2020. (ECF No. 3 at 2.) On May 19, 2020, Plaintiff filed an amended complaint. (ECF No. 4.) Plaintiff has not filed an application to proceed *in forma pauperis* or paid the full \$400 filing fee, and the June 2, 2020, deadline has now expired.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal*

1 Service, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with  
2 court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming  
3 dismissal for lack of prosecution and failure to comply with local rules).

4 In determining whether to dismiss an action for lack of prosecution, failure to obey  
5 a court order, or failure to comply with local rules, the court must consider several factors:  
6 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to  
7 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring  
8 disposition of cases on their merits; and (5) the availability of less drastic alternatives. See  
9 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;  
10 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

11 Here, the Court finds that the first two factors, the public's interest in expeditiously  
12 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
13 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
14 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
15 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*  
16 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
17 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
18 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey the  
19 court's order will result in dismissal satisfies the "consideration of alternatives"  
20 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d  
21 at 1424.

22 The Court's order requiring Plaintiff to file an application to proceed *in forma*  
23 *pauperis* or pay the full filing fee on or before June 2, 2020, expressly stated: "IT IS  
24 FURTHER ORDERED that if Plaintiff does not file . . . a fully complete application to  
25 proceed *in forma pauperis* with all three documents or pay the full \$400 filing fee for a civil  
26 action on or before June 2, 2020, the Court will dismiss this action without prejudice for  
27 Plaintiff to refile the case with the Court, under a new case number, when Plaintiff... has  
28 all three documents needed to file a complete application to proceed *in forma pauperis* or

1 pays the full \$400 filing fee." (ECF No. 3 at 3.) Thus, Plaintiff had adequate warning that  
2 dismissal would result from his noncompliance with the Court's order to file an application  
3 to proceed *in forma pauperis* or pay the full filing fee on or before June 2, 2020.

4 It is therefore ordered that this action is dismissed without prejudice based on  
5 Plaintiff's failure to file an application to proceed *in forma pauperis* or pay the full filing fee  
6 in compliance with this Court's order dated April 3, 2020.

7 It is further ordered Plaintiff's request for correction (ECF No. 5) is denied as moot.

8 It is further ordered that the Clerk of Court will enter judgment accordingly and close  
9 this case.

10 DATED THIS 9<sup>th</sup> day of June 2020.

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MIRANDA M. DU  
CHIEF UNITED STATES DISTRICT JUDGE